

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

BETHANY R. SCAER and STEPHEN SCAER,

Plaintiffs,

v.

CITY OF NASHUA, a Municipal Corporation,
JAMES W. DONCHESS, Mayor, City of Nashua, in
his official and individual capacities, and
JENNIFER L. DESHAIES, Risk Manager, City of
Nashua, in her official and individual capacities,

Defendants.

Civil Action No. 1:24-cv-00277-LM-TSM

THE DEFENDANT’S, CITY OF NASHUA INITIAL DISCLOSURE

NOW COMES the City of Nashua (the “City”), a Defendant in the above-captioned matter, by and through counsel, and submits the following initial disclosures in accordance with Fed. R. Civ. P. 26(a)(1).

**FED. R. CIV. P. 26(a)(1)(A): INDIVIDUALS LIKELY
TO HAVE DISCOVERABLE INFORMATION**

This disclosure does not constitute any admission as to the knowledge of the identified people, or a waiver of any attorney-client privilege, work product doctrine, or other applicable privilege or immunity. The City continues to investigate the claims and defenses in this case and reserves the right to supplement this disclosure at a later date, if necessary. Based upon the information reasonably available to the City at the present time, the following is a list of individuals who are likely to have discoverable information:

1. Jennifer Deshaies
Risk Manager, City of Nashua
c/o Preti Flaherty PLLP
57 North Main Street
Concord, NH 03301

Ms. Deshaies has knowledge regarding the City's present and past policies related to the raising of flags on a flag pole in front of Nashua City Hall and the applications made by citizens to fly a flag on said flag pole.

2. Jim Donchess
Mayor, City of Nashua
c/o Rath, Young, and Pignatelli, P.C.
20 Trafalgar Square, Suite 307
Nashua, NH 03063

Mayor Donchess has knowledge regarding the City's present and past policies related to the raising of flags on a flag pole in front of Nashua City Hall and the applications made by citizens to fly a flag on said flag pole.

3. Megan Caron
Chief of Staff, City of Nashua
c/o City of Nashua Office of Corporation Counsel
229 Main Street, Nashua, NH 03063

Ms. Caron has knowledge regarding the City's present and past policies related to the raising of flags on a flag pole in front of Nashua City Hall and the applications made by citizens to fly a flag on said flag pole.

4. Kim Grassett
Senior Risk Coordinator, City of Nashua
c/o City of Nashua Office of Corporation Counsel
229 Main Street, Nashua, NH 03063

Ms. Grassett has knowledge regarding the City's present and past policies related to the raising of flags on a flag pole in front of Nashua City Hall and the applications made by citizens to fly a flag on said flag pole.

5. Bethany R. Scaer

Ms. Scaer has knowledge regarding her own applications to raise flags the on the flagpole in front of Nashua City Hall. It is also anticipated that she has spoken with friends, family, and journalists via telephone, text message, social media, and other means regarding the facts and circumstances related to this lawsuit.

6. Stephen Scaer

Mr. Scaer has knowledge regarding his own applications to raise flags on the flagpole in front of Nashua City Hall. It is also anticipated that he has spoken with friends, family, and journalists via telephone, text message, social media, and other means regarding the facts and circumstances related to this lawsuit.

7. All Keeper of Records or Custodians of Records needed for authentication purposes.

8. All persons necessary for purposes of impeachment or rebuttal.

9. All individuals, other than attorneys, with whom either of the Plaintiffs communicated with regarding the facts and circumstances set forth in the complaint and answers to the complaint.

10. All persons with discoverable information identified through the discovery process.

11. All persons identified by any other party in their disclosures.

FED. R. CIV. P. 26(a)(1)(B): RELEVANT DOCUMENTS

The following categories of documents, which are currently maintained by the City of Nashua's Office of Corporation Counsel, may be used to support the Defendant's defense in this matter:

1. All written policies regarding the raising of flags on the fourth flag pole in front of Nashua City Hall from 2017 to the present.

2. All applications submitted to the City regarding the raising of flags on the fourth flag pole in front of Nashua City Hall from 2017 to the present.
3. All denials of applications submitted to the City regarding the raising of flags on the fourth flag pole in front of Nashua City Hall from 2017 to the present.
4. All appeals of denials of applications submitted to the City regarding the raising of flags on the fourth flag pole in front of Nashua City Hall from 2017 to the present.
5. All acceptances of applications submitted to the City regarding the raising of flags on the fourth flag pole in front of Nashua City Hall from 2017 to the present.
6. Special event applications submitted to the City between 2017 and the present.
7. All denials of special event applications submitted to the City between 2017 and the present.
8. All appeals of denials of special event applications submitted to the City between 2017 and the present.
9. All acceptances of special event applications submitted to the City between 2017 and the present.
10. Articles, either printed or in digital format, regarding the facts and circumstances referenced in the Complaint or Answer to the Complaint, and other filings submitted and orders issued in this case.
11. Any and all documents identified by other parties in their Rule 26 disclosures. In reserving this right, the City does not waive the right to object to the entry of the aforementioned documents into evidence at trial.

12. Any and all documents and things produced by the parties during the course of discovery.

In reserving this right, the City does not waive the right to object to the entry of the
aforementioned documents and things into evidence at trial.

FED. R. CIV. P. 26(a)(1)(B): DAMAGES CLAIMED

1. Not applicable.

FED. R. CIV. P. 26(a)(1)(B): INSURANCE AGREEMENT

1. Defendants are self-insured, and subject to self-insured retention.

Respectfully submitted,
City of Nashua, Defendant
By its Attorneys,

/s/ Jonathan A. Barnes
Steven A. Bolton, Esq. (NH Bar #67)
Celia K. Leonard, Esq. (NH Bar #14574)
Jonathan A. Barnes, Esq. (NH Bar #20061)
City of Nashua
Office of Corporation Counsel
229 Main Street, P.O. Box 2019
Nashua, NH 03061-2019
(603) 589-3250
boltons@nashuanh.gov
leonardc@nashuanh.gov
barnesj@nashuanh.gov

Dated: January 10, 2025

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has this day been forwarded through the
Court's electronic filing system to Bethany R. Scaer and Stephen Scaer and to all counsel
of record.

/s/ Jonathan A. Barnes
Jonathan A. Barnes